

**IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA**

TRAVIS BERDETTE STRICKLAND,)	
)	
Plaintiff)	CIVIL ACTION 21-C-04236-S4
)	FILE NO.: _____
)	
vs.)	
)	
KCG, INC., DBA REW MATERIALS and)	
TIMOTHY WILKERSON,)	<u>JURY TRIAL DEMAND</u>
)	
Defendants.)	

COMPLAINT FOR DAMAGES

COMES NOW, Plaintiff BERDETTE TRAVIS STRICKLAND, (hereinafter "Plaintiff STRICKLAND" or "Plaintiff") in the above-styled action, and makes and files this Complaint against the above-named Defendants KCG, INC dba REW MATERIALS (hereinafter "Defendant KCG, Inc.") and TIMOTHY WILKERSON (hereinafter "Defendant Wilkerson") and shows the Court as follows:

PARTIES AND JURISDICTION

1.

Plaintiff Strickland is a citizen of the State of Georgia and resides in this state and is subject to the jurisdiction of this Court.

2.

Defendant KCG, Inc., doing business as Rew Materials in State of Georgia is a foreign corporation, with its principal place of business in 15720 W 108TH ST STE 100, LENEXA, KS, 66219-1338 and may be served by delivering a copy of the summons and complaint to its registered agent, Corporation Service Company, 2 Sun Court, Suite 400, Peachtree Corners, GA 30092 (Gwinnett County).

3.

Defendant Timothy Wilkerson (“Defendant Wilkerson”) is an Alabama resident and may be served at his home address at 2404 Tillery Ln Apt A1, Phenix City, AL 36867-2955.

4.

Jurisdiction and venue are proper in this Court.

OPERATIVE FACTS

5.

On or about October 11, 2019, Defendant Wilkerson was driving a white 2015 IW9 down Smokey Road near Fields Road in Coweta County, Georgia.

6.

According to the Georgia Motor Vehicle Crash Report, Defendant Wilkerson admitted to being distracted by looking at a vehicle on the opposite side of the road at the same time Plaintiff Strickland was operating his vehicle in a lawful, reasonable, and prudent manner. Suddenly and without warning, Defendant Wilkerson’s semi-truck struck Plaintiff Strickland’s utility trailer, which was directly attached to his 2003 GMC Sierra 2500 (See Exhibit “A”, Georgia Motor Vehicle Crash Report).

7.

As a result of the collision, Plaintiff Strickland suffered critical injuries, including severe neck pain, whiplash, along with chronic back pain.

COUNT I - NEGLIGENCE

8.

Plaintiff re-alleges and incorporates the allegations contained in paragraphs 1 through 7 above, as if fully set forth herein verbatim.

9.

Defendant Wilkerson was negligent for failing to keep a proper lookout and for being distracted while driving.

10.

Defendant Wilkerson's negligence is the sole and proximate cause of the collision, and Plaintiff Strickland's resulting injuries.

COUNT II – IMPUTED LIABILITY

11.

Plaintiff Strickland re-alleges and incorporates the allegations contained in paragraphs 1 through 10 above, as if fully set forth herein verbatim.

12.

At the time of the subject collision, Defendant Wilkerson was working for Defendant KCG, Inc.

13.

At the time of the subject collision, Defendant Wilkerson was acting within the scope of his employment with Defendant KCG, Inc.

14.

Defendant KCG, Inc is responsible for the actions of Defendant Wilkerson in regard to the collision described in this complaint under the doctrine of respondeat superior, lease liability, and/or agency.

COUNT III – NEGLIGENT HIRING, TRAINING & SUPERVISION

15.

Plaintiff re-alleges and incorporates the allegations contained in paragraphs 1 through 14 above, as if fully set forth herein verbatim.

16.

Defendant KCG, Inc. was negligent in hiring Defendant Wilkerson and entrusting him to drive a commercial vehicle.

17.

Defendant KCG, Inc. was negligent in failing to appropriately train Defendant Wilkerson.

18.

Defendant KCG, Inc. was negligent in failing to properly supervise Defendant Wilkerson.

19.

Defendant KCG, Inc.'s negligence in hiring Defendant Wilkerson and entrusting him with driving a commercial vehicle and failing to train and supervise him properly was the sole and proximate cause of the collision, and Plaintiff Strickland's injuries.

COUNT IV – RESPONDEAT SUPERIOR

20.

Plaintiff hereby realleges and reasserts Paragraphs 1 through 19, as if fully set forth herein.

21.

Defendant KCG, Inc. is vicariously liable through the negligence of its employee, who was negligent in the operation of the vehicle, when he knew, or should have known, that failure to watch the roadway would result in injury and property damage.

22.

Defendant Wilkerson was negligent in the operation of the vehicle when he did not keep a proper lookout for other vehicles on the roadway or should have known that such a sudden action would result in injury and damage to property.

23.

Defendant Wilkerson was in uniform and operating a company vehicle and acting within the scope of his employment with Defendant KCG, Inc.

24.

Defendant Wilkerson's negligence per se was a proximate cause of Plaintiff's injuries and damages.

COUNT V DAMAGES

25.

Plaintiff re-alleges and incorporates the allegations contained in paragraphs 1 through 24 above, as if fully set forth herein verbatim.

26.

As a result of Defendants' negligence Plaintiff Strickland suffered serious and permanent injuries.

27.

As a result of the Defendants' negligence, Plaintiff Strickland has a claim for past, present, and future medical expenses and lost wages.

28.

As a result of Defendants' negligence, Plaintiff Strickland has a claim for past, present, and future pain and suffering.

29.

As a direct and proximate cause of the collision, Plaintiff Strickland suffered injury and resulting pain and suffering, disability, mental anguish, loss of earning, loss of ability to earn and loss of capacity for the enjoyment of life.

30.

Plaintiff Strickland incurred the following special damages as a result of this incident:

Piedmont Newnan Hospital	\$ 2,030.00
Serenity Chiropractic	\$ 7,100.00
American Health Imaging	\$ 4,595.00
Comprehensive Spine and Pain	\$135,217.30
Atlanta Regenerative Medicine Institute	\$ 35,400.00
Georgia Spine & Orthopaedics	<u>\$161,189.61</u>
TOTAL	\$345,531.91

31.

Defendants' conduct was reckless, willful and wanton, and demonstrates a conscious indifference to the consequences of their actions and entitles Plaintiff to an award of punitive damages.

32.

Plaintiff Strickland have a claim under O.C.G.A. §13-6-11 as the Defendants have acted in bad faith, and have been stubbornly litigious, warranting an award of plaintiff's attorney's fees and expenses.

WHEREFORE Plaintiff prays for the following:

- (a) That the Plaintiff have a trial by a jury as to all issues;
- (b) That Plaintiff Strickland recover for his pain and suffering;
- (c) That Plaintiff Strickland recover medical expenses in the amount of all and any other medical bills to be specified by timely amendment of this Complaint;
- (d) That Plaintiff Strickland recover general damages in an amount to be proven at trial;
- (e) That Plaintiff Strickland recover for past, present, and future medical, hospital, lost wages, out of pocket expenses and other items of special damages, in amounts to be specified by timely amendment of this Complaint;
- (f) That Plaintiff recover punitive damages in an amount to be proven at trial;
- (g) Recovery of reasonable attorney fees and expenses of litigation;
- (h) That all costs be cast against the Defendants; and
- (i) For such other relief as this Court deems just and appropriate.

This 8th day of June, 2021.

Respectfully submitted,

BY: /s/ Michael C. Jones

Michael C. Jones, Esq.

Attorney for Plaintiff

Ga Bar No.: 001359

MICHAEL C. JONES & ASSOCIATES, LLC

1827 Powers Ferry Rd, Bld. 11 Suite 200

Atlanta, Georgia 30339

Phone (404) 228-5985

Fax (404) 601-1845

Email: mikejones@mcjoneslaw.com

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I have served the above-styled Complaint for Damages via hand delivery of a Private Process Serve upon the following:

**KCG Inc., d/b/a Rew Materials
C/O Corporate Service Company
2 Sun Court
Suite 400
Peachtree Corners, GA 30092**

**Timothy Wilkerson
2404 Tillery Ln
Apt A1
Phenix City, AL 36867-2955**

This 8th Day of June, 2021.

Respectfully submitted,

BY: /s/ Michael C. Jones
Michael C. Jones, Esq.
Attorney for Plaintiff
Ga Bar No.: 001359

MICHAEL C. JONES & ASSOCIATES, LLC
1827 Powers Ferry Rd, Bld. 11 Suite 200
Atlanta, Georgia 30339
Phone (404) 228-5985
Fax (404) 601-1845
Email: mikejones@mcjoneslaw.com

EXHIBIT "A"

Agency Case Number 1910000534		Agency NCIC No 0380000		GEORGIA MOTOR VEHICLE CRASH REPORT		County COWETA		Date Rec. by DOT 10/11/2019	
Estimated Crash Date 10/11/2019 Time 07:06		Dispatch Date 10/11/2019 Time 07:06		Arrival Date 10/11/2019 Time 07:06		Total Number of Vehicles 2 Injuries 0 Fatalities 0		Inside City Of	
Road of Occurrence SMOKEY RD Not At Its Intersection But 1 Latitude (Y)						From Its Intersection With OF FIELDS RD Longitude (X)		<input type="checkbox"/> Suppl. To Original? <input type="checkbox"/> Private Property? <input type="checkbox"/> Hit And Run?	
Unit # <input checked="" type="checkbox"/> Driver <input type="checkbox"/> Ped <input type="checkbox"/> Bike LAST NAME FIRST MIDDLE WILKERSON TIMOTHY Address [REDACTED] <input checked="" type="checkbox"/> Susp At Fault					Unit # <input checked="" type="checkbox"/> Driver <input type="checkbox"/> Ped <input type="checkbox"/> Bike LAST NAME FIRST MIDDLE STRICKLAND BERDETTE Address [REDACTED] <input type="checkbox"/> Susp At Fault				
City ASHFORD State AL Zip [REDACTED] DOB [REDACTED] Driver's License No 7883413 Class CLASS A State AL Country US Insurance Co [REDACTED] Policy No [REDACTED] Telephone No [REDACTED] Year 2015 Make [REDACTED] Model [REDACTED] VIN [REDACTED] Vehicle Color White					City SENOIA State GA Zip [REDACTED] DOB [REDACTED] Driver's License No 055796326 Class CLASS C State GA Country US Insurance Co [REDACTED] Policy No [REDACTED] Telephone No [REDACTED] Year 2003 Make GENERAL MOTORS CORP Model S ERRA K500 VIN [REDACTED] Vehicle Color Unknown				
Tag # [REDACTED] State TN County [REDACTED] Year 2019 Trailer Tag # [REDACTED] State [REDACTED] County [REDACTED] Year [REDACTED]					Tag # [REDACTED] State GA County COWETA Year 2020 Trailer Tag # T11H16 State GA County COWETA Year 2020				
<input type="checkbox"/> Same as Driver Owner's Last Name First Middle REW MATERIALS Address [REDACTED] City COLUMBUS State GA Zip 31909 Removed By DRIVER <input type="checkbox"/> Request <input type="checkbox"/> List					<input type="checkbox"/> Same as Driver Owner's Last Name First Middle GREENLIFE LAWN CARE INC Address [REDACTED] City NEWNAN State GA Zip 30263 Removed By DRIVER <input type="checkbox"/> Request <input type="checkbox"/> List				
Alcohol Test No Type Not Tested Results None Given Drug Test No Type Results First Harmful Event Motor Vehicle In Motion Most Harmful Event Motor Vehicle In Motion Operator/Ped Cond Not Drinking Operator Factors Other Vehicle Factors No Contributing Factors Roadway Factors No Contributing Factors					Alcohol Test No Type Not Tested Results None Given Drug Test No Type Results First Harmful Event Motor Vehicle In Motion Most Harmful Event Motor Vehicle In Motion Operator/Ped Cond Not Drinking Operator Factors No Contributing Factors Vehicle Factors No Contributing Factors Roadway Factors No Contributing Factors				
Direction of Travel North Vehicle Maneuver Straight Non-Motor Maneuver Vehicle Class Commercial Motor Vehicle (CMV) Vehicle Type Single Unit Truck Vision Obscured Not Obscured Number of Occupants 2 Area of Initial Contact Right Side Near Front Damage to Vehicle Minor Damage Traffic Way Flow Two-Way Trafficway with no physical separation Road Composition Black Top Road Character Straight on Grade Number of Lanes 2 Posted Speed 45 Work Zone None					Direction of Travel East Vehicle Maneuver Stopped Non-Motor Maneuver Vehicle Class Privately Owned Vehicle Type Pickup Truck Vision Obscured Not Obscured Number of Occupants 1 Area of Initial Contact Front End Damage to Vehicle Minor Damage Traffic Way Flow Two-Way Trafficway with no physical separation Road Composition Black Top Road Character Straight and Level Number of Lanes 2 Posted Speed 45 Work Zone None				
Traffic Control No Control Present Device Inoperative <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					Traffic Control No Control Present Device Inoperative <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
Citation Information Citation # O C G A § Citation # O C G A § Citation # O C G A §					Citation Information Citation # O C G A § Citation # O C G A § Citation # O C G A §				
COMMERCIAL MOTOR VEHICLES ONLY									
Carrier Name REW MATERIALS Address [REDACTED] City COLUMBUS State [REDACTED] Zip [REDACTED]					Carrier Name Address [REDACTED] City [REDACTED] State [REDACTED] Zip [REDACTED]				
U.S. DOT # 688944 No. of Axles 3 GVWR 26001 or Greater					U.S. DOT # No. of Axles GVWR				
Cargo Body Type Flatbed Vehicle Config Single Unit Truck: 3 or More <input checked="" type="checkbox"/> Interstate <input type="checkbox"/> Fed Reportable <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					Cargo Body Type Vehicle Config <input type="checkbox"/> Interstate <input type="checkbox"/> Fed Reportable <input type="checkbox"/> Yes <input type="checkbox"/> No				
C.D.L. ? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No C.D.L. Suspended? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					C.D.L. ? <input type="checkbox"/> Yes <input type="checkbox"/> No C.D.L. Suspended? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Vehicle Placarded? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Hazardous Materials? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					Vehicle Placarded? <input type="checkbox"/> Yes <input type="checkbox"/> No Hazardous Materials? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Hazmat Released? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					Hazmat Released? <input type="checkbox"/> Yes <input type="checkbox"/> No				
If YES: Name or 4 Digit Number from Diamond or Box One Digit Number from Bottom of Diamond:					If YES: Name or 4 Digit Number from Diamond or Box One Digit Number from Bottom of Diamond:				
<input type="checkbox"/> Ran Off Road <input type="checkbox"/> Down Hill Runaway <input type="checkbox"/> Cargo Loss or Shift <input type="checkbox"/> Separation of Units					<input type="checkbox"/> Ran Off Road <input type="checkbox"/> Down Hill Runaway <input type="checkbox"/> Cargo Loss or Shift <input type="checkbox"/> Separation of Units				

COLLISION REPORT

Manner of Collision: Angle

Location at Area of Impact: On Roadway - Non-Intersection

Weather: Clear

Surface Condition: Dry

Light Condition: Daylight

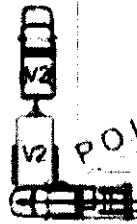
NARRATIVE

Added: Oct 11 2019 7:36AM

Vehicle two was in a driveway, waiting for the gate to open with his flashers on. Vehicle two's trailer was partially in the roadway. Vehicle one stated that he was looking at a vehicle on the other side of the road and when he looked in his lane of travel he struck the trailer that was in the roadway. No injuries were reported at the time of the accident.

DIAGRAM

Smokey Rd



(-Z

NOT TO SCALE

PROPERTY DAMAGE INFORMATION

Damage Other Than Vehicle

Owner

WITNESS INFORMATION

Name (Last, First)

Address

City

State

Zip Code

Telephone Number

OCCUPANT INFORMATION										
1	Name (Last, First) WILKERSON, T MOTHY					Address [REDACTED]				
	Age	Sex	Unit #	Position	Safety Eq	Ejected	Extricated	Air Bag	Injury	Taken for Treatment
	[REDACTED]	Male	1	Front Seat-Left Side	Lap and Shoulder Belt Used	Not Ejected	No	Non-Deployed Air	No Apparent Injury	No
Injured Taken To:			By:		EMS Notified Time:		EMS Arrival Time:		Hospital Arrival Time:	
2	Name (Last, First) DYSON, COREY					Address [REDACTED]				
	Age	Sex	Unit #	Position	Safety Eq	Ejected	Extricated	Air Bag	Injury	Taken for Treatment
	[REDACTED]	Male	1	Front Seat-Right Side	Lap and Shoulder Belt Used	Not Ejected	No	Non-Deployed Air	No Apparent Injury	No
Injured Taken To:			By:		EMS Notified Time:		EMS Arrival Time:		Hospital Arrival Time:	
3	Name (Last, First) STRICKLAND, BERDETTE					Address [REDACTED]				
	Age	Sex	Unit #	Position	Safety Eq	Ejected	Extricated	Air Bag	Injury	Taken for Treatment
	[REDACTED]	Male	2	Front Seat-Left Side	Lap and Shoulder Belt Used	Not Ejected	No	Non-Deployed Air	No Apparent Injury	No
Injured Taken To:			By:		EMS Notified Time:		EMS Arrival Time:		Hospital Arrival Time:	
4	Name (Last, First)					Address				
	Age	Sex	Unit #	Position	Safety Eq	Ejected	Extricated	Air Bag	Injury	Taken for Treatment
	[REDACTED]									
Injured Taken To:			By:		EMS Notified Time:		EMS Arrival Time:		Hospital Arrival Time:	
ADMINISTRATIVE										
Photos Taken <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No By						Officer Note: If collision resulted in a fatality, please send prompt notification to the GDOT Crash Reporting Unit via either email at GeorgiaFARS@gdofa.gov or Fax at (404) 635-2963.				
Report By		Agency		Report Date		Checked By		Date Checked		
BAGGETT		Coweta Co Sheriff's Office		10/11/2019 00:00		HILL		10/11/2019		